

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Requests for Waiver by)	
)	
Aubrey Independent School District	)	File No. SLD-437072
Aubrey, Texas)	
)	
Barrow County Schools	)	File No. SLD-435351
Winder, Georgia)	
)	
Bicentennial Union High School District #76	)	File No. SLD-408898
Salome, Arizona)	
)	
Campbell County Public Library	)	File No. SLD-415649
Cold Spring, Kentucky)	
)	
Delton Kellogg Schools	)	File Nos. SLD-433555, 433591
Delton, Michigan)	
)	
Magnolia Independent School District	)	File Nos. SLD-431400, 432166
Magnolia, Texas	)	432352, 432455, 432590
)	
Morris-Union Jointure Commission Board of Education	)	File No. SLD-433362
New Providence, New Jersey)	
)	
Northern Valley Schools USD 212	)	File No. SLD-434627
Almena, Kansas)	
)	
Novato Unified School District	)	File Nos. SLD-435492, 435531
Novato, California)	
)	
Palestine Public Library	)	File No. SLD-435551
Palestine, Texas)	
)	
Unified School District #421	)	File No. SLD-435018
Lyndon, Kansas)	
)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: February 23, 2005**Released: February 25, 2005**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration Requests for Waiver filed by Aubrey Independent School District, Aubrey, Texas; Barrow County Schools, Winder, Georgia; Bicentennial Union High School District #76, Salome, Arizona; Campbell County Public Library, Cold Spring, Kentucky; Delton Kellogg Schools, Delton, Michigan; Magnolia Independent

School District, Magnolia, Texas; Morris-Union Jointure Commission Board of Education, New Providence, New Jersey; Northern Valley Schools USD 212, Almena, Kansas; Novato Unified School District, Novato, California; Palestine Public Library, Palestine, Texas; and Unified School District #421, Lyndon, Kansas (collectively, Petitioners).¹ The Requests for Waiver seek waiver of the Funding Year 2004 FCC Form 471 filing window deadline for the schools and libraries universal service program. Consistent with precedent, we deny the Requests for Waiver.

2. In the Requests for Waiver, each Petitioner concedes it filed the FCC Form 471 application after the close of the filing window, and each requests a waiver of the filing window deadline.² Waiver is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the rule.³

3. We find that the above-captioned Petitioners have not demonstrated special circumstances to warrant waiver. The Commission has strictly and consistently enforced filing deadlines, allowing waivers of deadlines only in very limited and compelling situations.⁴ In light of the large number of applications that the Schools and Libraries Division (SLD) of USAC reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures, including filing deadlines.⁵ Hence, employee illness, staff failure to

¹ Letter from Robert Hancock, Aubrey Independent School District, to Federal Communications Commission, filed June 3, 2004; Letter from John St. Clair, Barrow County Schools, to Federal Communications Commission, filed August 16, 2004; Letter from Sheila Wolfe, Bicentennial Union High School District #76, to Federal Communications Commission, filed May 10, 2004; Letter from Kathleen Daniel, Campbell County Public Library, to Federal Communications Commission, filed November 29, 2004; Letter from Jack Schutte, Delton Kellogg Schools, to Federal Communications Commission, filed June 24, 2004; Letter from Rob Miller, Magnolia Independent School District, to Federal Communications Commission, filed November 9, 2004; Letter from Susan Yaniro, Morris-Union Jointure Commission Board of Education, to Federal Communications Commission, filed February 11, 2004; Letter from Bill Lowry, Northern Valley Schools USD 212, to Federal Communications Commission, filed February 18, 2004; Letter from Victor Guthrie, Novato Unified School District, to Federal Communications Commission, filed August 18, 2004; Letter from Carol Herrington, Palestine Public Library, to Federal Communications Commission, filed July 26, 2004; Letter from Bill Patterson, Unified School District #421, to Federal Communications Commission, filed May 17, 2004 (collectively, Requests for Waiver).

² The deadline for Funding Year 2004 applications was February 4, 2004. See Universal Service Administrative Company (USAC) website, What's New, November 2003, <<http://www.sl.universalservice.org/whatsnew/2003/112003.asp#110503>>.

³ 47 C.F.R. § 1.3. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁴ See, e.g., *Requests for Waiver by Atlanta Public Schools, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 05-430, para. 3 (Wireline Comp. Bur. rel. Feb. 16, 2005); *Requests for Waiver by El Dorado County Office of Education, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 05-431, para. 3 (Wireline Comp. Bur. rel. Feb. 16, 2005); *Requests for Waiver by E-Rate Central, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 05-432, para. 3 (Wireline Comp. Bur. rel. Feb. 16, 2005); See also *Request for Waiver by Stephen-Argyle Central School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-228975, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 15879, 15880-81, paras. 4-5 (Acc. Pol. Div. 2001); *FCC Overrules Caldwell Television Associates, Ltd.*, Public Notice, 58 RR 2d 1706 (1985) (permitting waivers only for particularly unusual and compelling circumstances).

⁵ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612-13, para. 8 (Com. Car. Bur. 2000) ("In light of the thousands of applications that SLD reviews and process each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").

perform a job properly, inclement weather, or misunderstanding of the rules does not relieve applicants of their responsibility to comply with the Commission's rules and procedures.⁶ Further, the assertion that denial of an application may have a detrimental impact on an applicant does not create special circumstances or suggest particular facts that warrant a waiver of the Commission's rules.⁷ In keeping with our prior decisions, we determine that the Petitioners here have not demonstrated the special circumstances necessary for a waiver of our rules.

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Requests for Waiver filed by Aubrey Independent School District, Aubrey, Texas, on June 3, 2004; Barrow County Schools, Winder, Georgia, on August 16, 2004; Bicentennial Union High School District #76, Salome, Arizona, on May 10, 2004; Campbell County Public Library, Cold Spring, Kentucky, on November 29, 2004; Delton Kellogg Schools, Delton, Michigan, on June 24, 2004; Magnolia Independent School District, Magnolia, Texas, on November 9, 2004; Morris-Union Jointure Commission Board of Education, New Providence, New Jersey, on February 11, 2004; Northern Valley Schools USD 212, Almena, Kansas, on February 18, 2004; Novato Unified School District, Novato, California, on August 18, 2004; Palestine Public Library, Palestine, Texas, on July 26, 2004; and Unified School District #421, Lyndon, Kansas, on May 17, 2004, respectively, are DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁶ *Request for Waiver by Duncan Public Library, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-325536, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22430, 22431, para. 3 (Wireline Comp. Bur. 2003); *Request for Waiver by Dermott Special School District, et al, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-252777, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 5091, 5093, paras. 3-5 (Com. Car. Bur. 2002). See also *Request for Waiver by Art In Context, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-262426, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 5087, 5089, paras. 6-8 (Com. Car. Bur. 2002); *Request for Waiver by Midland School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-269321, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 17920, 17922-23, paras. 5-6 (Com. Car. Bur. 2001).

⁷ *Application for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 21521, 21528, para. 18 (2003).